

United States District Court
District of Massachusetts

*Dec'd in open
court*

*11/20/18
CL*

SECURITIES AND EXCHANGE
COMMISSION,

v.

DAVID JOHNSTON,

Defendant.

Civil Action No.
16-10607-NMG

Verdict Form

DO YOU, THE JURY, UNANIMOUSLY FIND THAT:

1. AS TO CLAIM 1: The plaintiff, the Securities and Exchange Commission, has proven that the defendant, David Johnston, engaged in fraudulent conduct (a deceptive scheme, untrue statement of material fact or material omission, and/or a fraudulent act, practice or course of business) with either actual intent to defraud or high degree of recklessness in violation of Section 10(b) of the Securities and Exchange Act of 1934 and SEC Rule 10b-5?

Yes



No

IF YOU ANSWER QUESTION 1 "YES", PROCEED TO QUESTION 2 (A) .

IF YOU ANSWER QUESTION 1 "NO", PROCEED TO QUESTION 2 (B) . YOU
NEED NOT ADDRESS QUESTION 2 (A) .

2. AS TO CLAIM 2: The plaintiff, **the Securities and Exchange Commission**, has proven that the defendant, **David Johnston**

a) engaged in a scheme to defraud with actual intent to defraud or high degree of recklessness in violation of Section 17(a)(1) of the Securities Act?

Yes ✓ No

b) obtained money or property by means of an untrue statement of material fact or material omission with negligence in violation of Section 17(a)(2) of the Securities Act?

Yes ✓ No

c) engaged in any transaction, practice or course of business which operated or would have operated as a fraud or deceit with negligence in violation of Section 17(a)(3) of the Securities Act?

Yes ✓ No

3. AS TO CLAIM 3: The plaintiff, **the Securities and Exchange Commission**, has proven that the defendant, **David**

Johnston, negligently filed SEC certifications (Forms 10Q and/or 10K) that contained statements that were untrue or failed to include a material fact thus making the certifications false in violation of Rule 13a-14 of the Securities Exchange Act of 1934?

Yes ✓ No

YOUR DELIBERATIONS ARE COMPLETE. THE FOREPERSON WILL SIGN THE VERDICT FORM AND NOTIFY THE MARSHAL IN WRITING THAT THE JURY HAS COME TO A DECISION WITHOUT REVEALING THE VERDICT TO THE MARSHAL. THE JURY WILL THEN BE INVITED TO THE COURTROOM TO RETURN ITS VERDICT.

Date: 11/20/2018

Jury Foreperson: _____

